

BOARD OF COUNTY COMMISSIONERS
Agenda Item Summary

Meeting Date 6/16/04

Division County Attorney

AGENDA ITEM WORDING

Presentation of settlement offer from Brett Unke to resolve his code enforcement lien.

ITEM BACKGROUND

In December 2003, the Code Enforcement Special Master imposed a \$500.00 per day fine against Mr. Unke's property for building a dock without a permit. Mr. Unke was in the process of obtaining a permit from the Army Corps at the time when the Special Master imposed the fine. Mr. Unke had worked closely with the Code Enforcement Department to keep them informed of his progress with the Army Corps. The Special Master overruled the Code Enforcement Director's request for an extension of the compliance date, which was requested because of Mr. Unke's cooperation.

Mr. Unke has offered to settle the lien for \$100.00, the amount of the administrative costs that are imposed in each case that goes to a hearing.

PREVIOUS RELEVANT BOCC ACTION

None.

CONTRACT/AGREEMENT CHANGES

STAFF RECOMMENDATIONS

Reject. The County Attorney recommends that Unke pay at least a 1 day fine plus the \$100.00 in costs for a total of \$600.00.

TOTAL COST

BUDGETED Yes No

COST TO COUNTY

SOURCE OF FUNDS

APPROVED BY: County Attorney ☒ OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL: John R. Collins 06/10/04
JOHN R. COLLINS

DOCUMENTATION: Included ☐ To Follow ☐ Not Required ☐

AGENDA ITEM # 76

To: Bob Shillinger
Assistant County Attorney
Key West, FL 33040
305-292-3470

From: Brett Unke
17172 Seagrape Lane
Sugarloaf Key, FL 33042
305-745-9115
305-797-1478

Dear Sir,

For nearly four years I have been attempting to obtain an after the fact permit for my dock. The first step in this process was to apply with the Army Corp of Engineers. After waiting 3 years for the Army Corp of Engineers to process my dock application I received the permit in August of 2003.

As part of their stipulations I was required to file a deed restriction with the county. The deed restriction applied to a strip of my property adjacent to the shoreline approximately 30 feet long by 4 feet wide. In this area of my property I would be restricted from any future development and required to plant buttonwood trees at an interval of no less than one plant every 3 feet. As part of the Army Corp process I was able to appeal the permit and the conditions within it. I did this in an effort to change the conditions of the deed restriction.

Over the course of nearly three years at each of the Special Master hearings I was granted an extension. This made perfect sense as the Army Corps moves at a pace beyond my control. In December of 2003 the Special Master veered from his previous extension rulings and fined me \$500 a day until the project was brought into compliance. At that point in time I was still waiting for the Army Corp of Engineers to process my appeal.

In January I was able to get the Army Corp to refine the conditions of the deed restriction and feeling the pressure of a \$500 a day fine, I withdrew my appeal. My permit was reissued by the Army Corp and I immediately filed my application with the county, received my building permit and passed my inspection.

During the period of time that the Army Corp was processing my application, I stayed in close contact with Rhonda Norman at Monroe County Code Enforcement. I copied her on all my correspondences with the Army Corps and kept her apprised of any changes or progress. I feel that I did everything within my power to expedite the permitting process and represented myself in an honest and responsible manner. Therefore, I believe that the \$500 a day fine is exorbitant and unreasonable.